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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,061	07/16/2003	Paul R. Sanberg	112133.00002 ORD	8835
26707	7590	03/29/2006	EXAMINER	
QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391			VOGEL, NANCY S	
			ART UNIT	PAPER NUMBER
			1636	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/621,061	Applicant(s) SANBERG ET AL.	
	Examiner Nancy T. Vogel	Art Unit 1636	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 6-8 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                          | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                 | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/27/05</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

### **DETAILED ACTION**

Claims 1 and 6-8 are pending in the case.

Receipt of the Information Disclosure Statement filed 10/27/05 is acknowledged.

#### ***Election/Restrictions***

Applicant's election with traverse of Group I, claim 1, in the reply filed on 10/27/05 is acknowledged. The traversal is on the ground(s) that the search required for examination of all claims is not burdensome. This is not found persuasive because each of the Groups set forth in the Restriction Requirement is drawn to very different subject matter, each of which requires a different search in patent and non-patent literature. Further, the issues raised by the subject matter of each group differs substantially. Therefore, it is maintained that the search burden would be unreasonable for examination of all groups. Furthermore, applicant has cancelled the non-elected claims in their response of 10/27/05.

The requirement is still deemed proper and is therefore made FINAL.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are vague and indefinite in the recitation of "step a is followed by the step of concentrating using ultrafiltration", "step a is followed by the step fractionating the supernatant on a Sephacryl gel", and "the method of claim 7 wherein the next step is combining groups of five collected fractions..." It is not clear when the steps recited above occur in the method set forth in claim 1, since "after step a" could mean at any point in the claimed steps a)-d). If they are intended to be inserted after step a) and before step b), it is unclear how, for instance, in claim 8, the recited steps "fit" into the purification scheme set forth in claim 1, ie. claim 8 recites step fractionating on a Sephacryl gel, followed by combining groups of five collected fractions and determining an active fraction. It is not clear how this would be followed by "exposing the supernatant to preparative polyacrylamide gel electrophoresis..." in step b) of claim 1.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 6-8 are rejected under 35 U.S.C. 102(a) as being anticipated by Gower et al. (J. Neuroimmunol. 125 (March 2002) 103-113).

Gower et al. disclose a method for purifying an immunosuppressant protein (HISP) comprising obtaining supernatant from hNT cells, exposing the supernatant to preparative polyacrylamide gel electrophoresis, placing the active isoelectric fraction on a Blue Sepharose column, and collecting the free fraction containing the concentrated HISP. The reference discloses additional steps of ultrafiltration and Sephacryl fractionation, and combining groups of five fractions and determining peak active fraction (see page 106, 2.10-2.11).

### ***Conclusion***

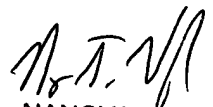
No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy T. Vogel whose telephone number is (571) 272-0780. The examiner can normally be reached on 6:30 - 3:00, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel, Ph.D. can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
NANCY VOGEL  
PRIMARY EXAMINER